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In re application of:	Rosenberg	:	DECISION ON
Serial No.	09/601,062	:	PETITION
Filed:	October 19, 2000	:	
For:	HIGH EFFICIENCY RECOVERY PROCESS AND APPARATUS FOR THE PYROLYSIS TREATMENT AND HALOGENATION OF MULTI-ELEMENT WASTE	:	

This is a response to the PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT ON FAILURE TO RECEIVE OFFICE ACTION UNDER 37 CFR § 1.181 filed by facsimile transmission on April 7, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed June 17, 2003, be withdrawn since the applicant did not receive the office action mailed September 4, 2002.

DECISION

Since the petitioner asserts that the applicant did not receive the office action mailed September 4, 2002, the request is accepted as a petition under 37 C.F.R. § 1.181 (no fee) and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.02 - NEW PROCEDURE TMOG 1170 O.G. 114).

37 CFR 1.181(f) provides that, inter alia, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. See MPEP 711.03(c).

Therefore, the petition (under 37 CFR 1.181) to withdraw the holding of abandonment filed May 3, 2004 is dismissed as untimely since it was filed more than 10 months after the mailing date of the notice of abandonment.

The holding of abandonment for failure to timely file a proper response to the Office letter mailed on September 4, 2002 is hereby maintained.

The Petition is **DISMISSED**.

Jacqueline Stone

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